

REMARKS

The Examiner's action of September 16, 2008, finally rejecting the claims is noted. The time to respond to the Office Action is extended by petition and is set to expire on January 16, 2009.

The rejection is made because the Examiner is unconvinced that there was a reduction to practice which permits the Applicant to swear behind the Schoenberg and Zak references.

The Examiner is referred to a Third Supplemental Rule 131 Declaration by A. Christian Tahan provided herewith which substantiates the fact that at least two reductions to practice of the invention were made prior to February 22, 2000. The first was at the house of Samir Tahan at 1312 Edward Drive, Moncks Corner, South Carolina prior to February 22, 2000 in which Mr. Tahan demonstrated a working prototype to his father who is an engineer.

Samir Tahan states in his supporting affidavit that in his presence a database was populated with patient information, a patient ID was inputted to the system, information about the patient was inputted to the system and the database was queried to transmit information to a Palm handheld device on the identity of the patient.

Applicant's Third Supplemental Declaration has an Appendix which includes a picture of the server used at 1312 Edward Drive along with screen shots of the results of the Corel software run on this computer for the demonstration to Samir Tahan. Also presented in the Third Supplemental Declaration by Applicant is a print out of an actual

uploadable and downloadable form used for the Corel database and a picture of the Palm handheld device used in this first actual reduction to practice.

The second actual reduction to practice was a demonstration done on Applicant's personal computer, with the demonstration being at MIT, 77 Massachusetts Avenue, Cambridge Massachusetts, in a classroom in Building 4. This demonstration was shown to Alexandra Dunn who understood the invention. She provides a Declaration that she saw a demonstration of the claimed invention prior to February 22, 2000. She saw a patient ID entered into a computer that had the patient's records in its database and saw that when the patient's records were matched to the patient's ID they were transmitted to a Palm handheld device. Note, a DB2 database was used in this second actual reduction to practice and the previously presented C++ code was used in part to access this database.

The Third Supplemental Declaration documents two actual reductions to practice witnessed by one other than the inventor. Because the reductions to practice were witnessed, it is not necessary to map the previously presented source code to the claim elements. It is sufficient that Chris Tahan says the code was used in the second reduction to practice and the reductions to practice were witnessed.


Thus, Applicant has clearly documented that he had his concept prior to February 22, 2000 and that his witnessed actual reductions to practice occurred prior to February 22, 2000.

Applicant therefore requests removal of the Schoenberg and Zak references and with this removal, requests allowance and issuance of the case.

There are no new issues addressed in this Amendment and therefore no new search is necessary.

Allowance of the claims and issuance of the case is therefore earnestly solicited. Alternatively, entry of this Amendment for Purpose of Appeal is requested.

Respectfully submitted,



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Date:

January 16, 2009